



SO ORDERED.

SIGNED this 25 day of August, 2011.

Stephani W. Humrickhouse

**Stephani W. Humrickhouse
United States Bankruptcy Judge**

**UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF NORTH CAROLINA
RALEIGH DIVISION**

IN RE:) CASE NO. 11-03771-8-SWH
) CHPATER 13
WOODROW SPEIGHT CARTER)
)
Debtor.)
)
)
)

CONSENT ORDER REGARDING AVOIDANCE OF LIEN

This matter comes before the Court pursuant to the consent and agreement between Debtor, WOODROW SPEIGHT CARTER ("Debtor") and AMERICAN EXPRESS BANK FSB, a secured creditor and party-in-interest (hereafter "American Express" or "Creditor"). Through this Consent Order, Debtor and American Express have agreed to the entry of an order for cancellation and release of American Express' judgment and lien on Debtor's real property located at 2013 Crawford Street, Raleigh, NC, 27610, subject to the terms and conditions herein.

In relation to this matter the Court FINDS and CONCULDES as follows:

RECITALS

1. The Plaintiff filed a voluntary petition commencing a Chapter 13 proceeding on May 15, 2011, under Case No. 11-03771-8-SWH.

2. Plaintiff is the joint owner of the real property located at 2013 Crawford Street, Raleigh, NC, 27610. The property is legally described as follows:

BEING all of Lot 26, Block B, of PINE HAVEN SUBDIVISION, as shown on the plat thereof recorded in Map Book 1969, Page 179, re-recorded in Book of Maps 09640, Pages 01554 through 01556, Wake County Public Registry

3. American Express holds a valid judgment and lien on the property in the approximate principal amount of \$21,486.00, awarded in the General Court of Justice, District Court Division, Wake County, North Carolina. Bank of America Home Loans Servicing holds a first position deed of trust in the approximate principal amount of \$80,000.00. On the date of the petition, the value of the property was less than the amount of the first position deed of trust.

4. On or about July 18, 2011, Debtor filed a Motion to Avoid Judgment Lien. American Express has not filed an objection or response.

5. Debtor and American Express consent and agree that Debtor is entitled to avoid the judgment lien of American Express.

ORDER

Based on the foregoing, and good cause appearing, it is hereby ORDERED as follows:

1. Upon successful completion of the Plan by the Debtor and the entry of a discharge pursuant to 11. U.S.C. §1328, American Express' judgment and lien shall be canceled and released and shall be of no further force and effect. Such cancellation and release shall become immediately effective upon the entry of the discharge, but until such time, the judgment and lien

shall remain in full force and effect. This order is binding on any and all successors and assigns of American Express.

2. Upon entry of the Debtor's Chapter 13 discharge, this order may be recorded by the Debtor with the Wake County Recorder's Office as a release and reconveyance of the judgment and lien.

3. Creditor shall retain its lien for the full amount due under the subject loan in the event of either the dismissal of Debtor's Chapter 13 case or the conversion of the Debtor's Chapter 13 case to any other Chapter under the United States Bankruptcy Code.

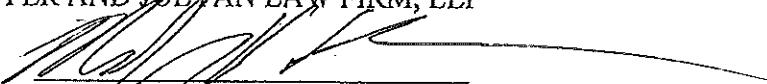
4. Any secured proof of claim filed by American Express with regard to account number xxxx-xxxxxx-x5004 is denied. American Express shall be entitled to an allowed unsecured non-priority claim per an appropriate unsecured non-priority proof of claim which may be filed.

5. In the event that the holder of the first lien on the Subject Property forecloses on its security interest and extinguishes Creditor's judgment and lien prior to Debtor's completion of the Chapter 13 Plan and receipt of a Chapter 13 discharge, Creditor's lien shall attach to the surplus proceeds of the foreclosure sale for the full amount of the subject loan balance at the time of the sale.

6. Each party shall bear their own attorney fees and costs incurred in the bankruptcy case number 11-03771-8-SWH.

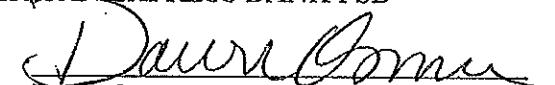
CONSENTED AND AGREED UPON AS TO FORM AND CONTENT:

HOPPER AND JULYAN LAW FIRM, LLP

By: 

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BECKET AND LEE, LLP ON BEHALF OF
AMERICAN EXPRESS BANK FSB

By: 

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Attorney for Creditor

NO OBJECTION:

John F. Logan
Chapter 13 Trustee
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